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ARBITRATION PROCEDURE IN CZECHOSLOVAK FOREIGN TRADE

An Arbitration Office is attached to the Czechoslovak Chamber of Commerce. The by-laws of this office were approved on 27 May 1949 by the Czechoslovak Ministry for Foreign Trade. The Arbitration Office consists of the chairman, four members, and the secretary.

All members of the Arbitration Office are appointed according to the by-laws by the Presidium of the Czechoslovak Chamber of Commerce for one year.

Persons may be nominated for membership in the Arbitration Office if they are employed in the field of foreign trade or in business or transport organizations and are familiar with the functions of the office. Other persons may also be nominated if their knowledge guarantees that they will fulfill successfully the duties of the office. The Arbitration Office does not investigate cases itself. Investigation for arbitration purposes is done by arbitrators. According to Article 7 of the by-laws, the Arbitration Office "supervises the carrying out of arbitration investigations and the execution of the provisions concerning arbitration procedure."

The Arbitration Office investigates in full session the questions for which it is responsible. At least three members of the office must be present for a quorum. If the chairman is unable to be present at the meeting, he must designate another member as his deputy.

The chairman and secretary-general of the Czechoslovak Chamber of Commerce may attend meetings of the Arbitration Office, but only in an advisory capacity.

The Arbitration Office makes decisions by simple majority vote; in case of a tie, the vote of the chairman is decisive.

The Arbitration Office maintains a panel of arbitrators. Decision as to whether certain persons are to be admitted to or excluded from this panel is rendered by the Presidium of the Czechoslovak Chamber of Commerce.

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The arbitration investigation is made by arbitrators (singly or in groups), selected by the contesting parties from among arbitrators on the panel.

"The Provisions Regarding Procedure Before the Arbitration Office Attached to the Czechoslovak Chamber of Commerce" were approved on 27 May 1949 by the Ministry of Foreign Trade. According to these provisions, a plaintiff must submit a brief containing the names, occupations, and addresses of the parties, a statement of his demands and the justification for them, together with the original or a true copy of the contract under which the dispute arose. The plaintiff's brief and all its attachments must be submitted in at least three copies, so that the Arbitration Office may furnish one copy to each interested party and keep one for itself.

A case may be accepted for arbitration only if the two parties have agreed upon an arbitration court. In other cases the office is required to return the brief and all supporting material to the plaintiff.

After determining jurisdiction for the individual case, the Arbitration Office forwards the plaintiff's brief with all attachments to the defendant, setting at the same time a date for the hearing. The defendant then must submit to the office his objections or comments, appropriately documented. The interval to elapse before the hearing may not exceed one month, but this period may be extended by the Arbitration Office upon the request of an interested party.

If the two parties already have an agreement concerning the arbitration court but one of the parties (the defendant) refuses to participate in proceedings before the Arbitration Office, the latter may nevertheless proceed to consider the case, even though the defendant withdraws from the arbitration court.

The provisions on procedure before the Arbitration Office provide that the parties, having agreed on the court of arbitration, shall undertake to accept the arbitral decision.

The chairman of the Arbitration Office may, if requested by one of the contesting parties, appoint experts to carry out necessary investigation and analyses, and may also take temporary measures to protect the interests of the plaintiff, including the sale of merchandise, e.g., perishables. All such measures must be in compliance with the laws of the Czechoslovak Republic. After a case has been turned over to an arbitration court, the composition of which has already been determined, the aforementioned measures may be taken upon decision of the arbitration court.

As agreed upon by the contesting parties, a case may be heard by one arbitrator (single arbitrator) or by three arbitrators.

The arbitration court with three arbitrators may be chosen in two ways. It may consist of one arbitrator selected by each contesting party and a chairman selected by the two parties together or, if they fail to agree, appointed by the Arbitration Office. If in this case the arbitrators fail to agree, the opinions of the chairman are decisive even when not in agreement with those of the other members. Another way in which the three-man arbitration court may be constituted, if the two parties so agree, is as follows: each party selects an arbitrator, and the third arbitrator, whose powers are the same as those of the first two, is chosen by the two parties together or, if they fail to agree, is appointed by the Arbitration Office. In this case the arbitral decision is rendered by

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majority vote of the arbitrators. If one of the contesting parties fails to nominate his arbitrator within the time limit set by the Arbitration Office, the latter will also appoint this arbitrator.

Each of the contesting parties has the right to object to an arbitrator selected by the other party, but the question of sustaining or overruling the objection is decided by the arbitration court.

The Arbitration Office meets in Prague, but it may, if the parties concerned agree, meet elsewhere, even in a foreign country.

The rules on procedure before the Arbitration Office provide that the arbitration courts must dispose of each case within 2 months.

The arbitrators are to make every effort to secure a compromise between the plaintiff and the defendant, and for this purpose are to determine the facts and all elements of the relationship between the contesting parties.

The investigation of the subject matter should as a rule take place with the participation of the contesting parties, unless the parties request that the hearing take place in their absence. The contesting parties may also be represented by authorized representatives at sessions of the arbitration court.

Before signing the arbitral decision, the arbitrators shall notify the Presidium of the Arbitration Office, which may direct the arbitrators to make formal changes in the decision without, however, interfering with its substance. The signed decision of the arbitration court may not be given to the contesting parties until the Arbitration Office has approved.

The Arbitration Office may require either contesting party at any stage of the arbitration procedure to deposit a sum to the credit of the Czechoslovak Chamber of Commerce as a bond that the decision of the arbitration court will be complied with.

The decision of the arbitration court must indicate the amount of court costs and the distribution of these costs between the two parties.

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